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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,374	07/01/2003	Tommy E. White	GP-302609	4951

7590 04/14/2005
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EXAMINER

PHAN, HAU VAN

ART UNIT PAPER NUMBER

3618

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/611,374	WHITE ET AL.	
	Examiner	Art Unit	
	Hau V Phan	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
 4a) Of the above claim(s) 12-16, 21 and 27 is/are withdrawn from consideration.
 5) ☒ Claim(s) 19, 20 and 22 is/are allowed.
 6) ☒ Claim(s) 1-8, 17, 18, 23-25, 28 and 29 is/are rejected.
 7) ☒ Claim(s) 9-11 and 26 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/13/2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group I, figure 1a-1d in the reply filed on 3/16/2005 is acknowledged. The traversal is on the ground(s) that group II, figures 2a-2b the linkages are arranged differentially. This is not found persuasive because figures 2a-2b can be "independent and distinct". In 37 CFR 1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 12-16, 21 and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/16/2005.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 11/13/2003 has been considered.

Claim Objections

4. Claims 9, 19, 26 are objected to because of the following informalities: "at the second end of the second link to the shiftable first link" should be change to -- at the

second end of the second link is pivotally connected to the shiftable first link --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-8, 17-18, 23-25 and 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Bayley (2,737,254).**

Bayley in figure 1, discloses a motorized cover system and method for operating the cover system for a vehicle comprising a cover (1) movable connected with respect to the vehicle for covering a compartment in the vehicle, at least one motor (90) connected to the vehicle and at least one linkage (as shown in figure 2) operatively connecting the cover to the motor, wherein the at least one motor is operable for moving the cover between a closed position and at least one open position.

Regarding claim 2, Bayley discloses the compartment, which is a power plant compartment. The cover is a hood and the compartment is substantially covered in the closed position and is substantially exposed in the at least one open position.

Regarding claim 3, Bayley discloses at least one latch assembly (6) disposed between the vehicle and the cover for securing the cover to the vehicle, wherein the at

least one latch assembly is engageable for securing the cover to the vehicle in the closed position and disengageable for permitting movement of the cover.

Regarding claim 4, Bayley discloses the at least one latch assembly, which is automatically engageable and automatically disengageable.

Regarding claim 5, Bayley discloses the at least one latch assembly including a striker and wherein the striker is engaged when the cover is in the closed position and disengaged when the cover is in the at least one open position (figures 1-2).

Regarding claim 6, Bayley discloses the striker, which is disposed on the cover.

Regarding claim 7, Bayley discloses an operator input device, wherein the operator input device is operatively connected to the motor for operating the motor.

Regarding claim 8, Bayley discloses the operator input device, which is operatively connected to the at least one latch assembly for engaging and disengaging the at least one latch.

Regarding claim 17, Bayley discloses at least one hingeable connector portion hingeably connecting the cover with respect to the vehicle.

Regarding claim 18, Bayley discloses the cover, which is a hood and the compartment is an engine compartment, and wherein the vehicle has a vehicle frame. The vehicle frame comprises a plurality of structural load-bearing frame members including two front hinge pillars, at least one cross member mounted with respect to the two front hinge pillars and partially defining the engine compartment, and two rails mounted with respect to the at least one cross member and further partially defining the engine compartment and a body panel assembly. Wherein the body panel assembly

includes the hood and wherein the body panel assembly is rigidly mounted to each of at least two of the frame members so that the body panel assembly forms a portion of the frame by structurally interconnecting said at least two frame members.

Regarding claim 28, Bayley discloses the cover including translatable movement of the cover with respect to the vehicle.

Regarding claim 29, Bayley discloses the vehicle has a windshield (inherent) and wherein substantially all of the cover is above the compartment and is at least partially over the roof windshield the cover is in the at least one of the first and the second positions that is an open position.

Allowable Subject Matter

7. Claims 9-11, 26 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 19-20, 22 are allowed.

9. The following is an examiner's statement of reasons for allowance.

The prior art does not teach the motorized cover system as recited in claim 19, which includes at least one linkage having a first link longitudinally shiftably drivable by at least one motor and a second link. The second link has a first end and a second end. The first end is pivotably connected to a cover and second end is pivotally connected to the first link. This recitation, in combination with the rest of the recited elements, clearly defines over the prior art.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marshall discloses a locking device for automobile hoods, Adamski discloses a hinge for a hood, Peterson discloses an electric solenoid operation vehicle hood lock.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
4/14/05

Hau V Phan
Primary Examiner
Art Unit 3618